

OGC 72-1077

25 July 1972

MEMORANDUM FOR: Special Assistant, Information Control

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SUBJECT : Matters

By way of follow-up to several of the points we discussed this morning:

a. Mr. Halpern had indicated to you and to me Mr. Karamessines' concern that the use of the term "Approval of Director" or "APDIR" will be read as meaning that the Director has declassified the document involved. My own concerns with the use of the term are several. First, it is a contradiction in terms to say that something is "automatically" declassified when the Director acts to declassify it. Second, the stamp will not accomplish what is intended; that is, in 30 years the document will automatically declassify notwithstanding that the document bears the stamp which includes that term. As you know, the stamp contemplates that the blank will not be filled in when it is impossible to name a date or event which will cause declassification. One of the purposes in the use of this term, I understand, is to prevent the recipient of a document in which the blank has not been filled in from improperly inserting a date or event. I think Mr. Karamessines' point, as well as mine, could be met by using instead the term "impossible".

b. As you know, the Director, by his approval on 22 June of a memorandum to him from the Director of Security, exempted from automatic declassification "classified information or material bearing the notation 'WARNING NOTICE — SENSITIVE INTELLIGENCE SOURCES AND METHODS INVOLVED'." As a result of this action, many documents and all documents of certain types and categories are being stamped "Warning Notice — Sensitive Intelligence Sources and Methods Involved" in order to utilize the action taken by the Director. It may be that we are causing ourselves undue difficulty by this approach.

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Further, we may be using the term for information which does not fall within the definition of it. Under paragraph 2, Section A, PART V of [] documents so marked may be disseminated outside authorized channels only in accordance with that paragraph. The paragraph also defines sensitive intelligence as intelligence, "the unauthorized disclosure of which could lead to counteraction (a) jeopardizing the continued productivity of intelligence sources or methods which provide intelligence vital to the national security." (This paragraph was taken from paragraph VI. E. of the National Security Council Directive and was incorporated into the Directive at the request of CIA. Similar provisions are included in DCID 1/7 and [] The latter also provides for "severely limited distribution" of such documents.) The primary purpose of the Director's action, I assume, was to avoid a situation in which great numbers of documents individually would have to be referred to an official having Top Secret classifying authority in order to have such an official make determinations that the documents are or are not exempt from automatic declassification. I believe this purpose could be achieved, without also running afoul of PART V.A.2., if the DDP or another Top Secret classifying official were to exempt categories of documents which he could determine involve "intelligence sources and methods" (not "sensitive intelligence sources and methods"). For example, a DDP memorandum could exempt from the General Declassification Schedule all written or electronic communications to or from any overseas DDP installation. Other categories of documents and information also could be given such treatment.

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Associate General Counsel

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Original - Addressee

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